

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF NEW YORK

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UNITED STATES OF AMERICA,

-against-

MEMORANDUM AND ORDER  
04-CR-681(DRH)

DAVID ALVAREZ,

Defendant.

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A P P E A R A N C E S:

For the Government:

Benton J. Campbell  
United States Attorney  
Eastern District of New York  
610 Federal Plaza  
Central Islip, New York 11722  
By: William P. Campos, A.U.S.A.

For Defendant:

David Alvarez, Pro Se  
Reg. No. 68830-053  
FCI - Fairton  
P.O. Box 420  
Fairton, New Jersey 08320

HURLEY, Senior District Judge

By letter filed on December 14, 2009, David Alvarez ("petitioner" or "Alvarez") requests, pursuant to the "[S]econd [C]hance [Act]," that he be transferred to community confinement "to be with [his seriously ill] two year old son." (Alvarez Letter at 1.)

On April 9, 2008, Congress enacted the Second Chance Act of 2007 ("the Act"), which amended 18 U.S.C. § 3624(c) to require BOP:

to the extent practicable, [to] ensure that a prisoner serving a term of imprisonment spends a portion of the final months of that term (not to exceed 12 months), under

conditions that will afford that prisoner a reasonable opportunity to adjust to and prepare for the reentry of that prisoner into the community. Such conditions may include a community correctional facility.

Pub. L. No. 110-199, 122 Stat. 657 (2008).

Petitioner is presently serving a one hundred month period of incarceration after being sentenced by me on December 16, 2005. Accordingly, he is not eligible for release under the Act since he has not entered the "final months" of his term of imprisonment. Id.

Accordingly, petitioner's understandable request, predicated on 18 U.S.C. § 3624(c), must be and is denied.

SO ORDERED.

Dated: February 9, 2010  
Central Islip, New York

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DENIS R. HURLEY, U.S.D.J.